

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

PAUL MATTHEW ZAPATA, No. C-11-0032 TEH (PR)  
Petitioner,  
v. ORDER OF DISMISSAL  
RODOLFO VASQUEZ, Warden,  
Respondent.

18 Petitioner, a state prisoner incarcerated at Pelican Bay  
19 State Prison in Crescent City, California, has filed a pro se  
20 Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2254  
21 challenging the process by which he was placed in administrative  
22 segregation. Doc. #1. He has paid the \$5.00 filing fee.

23 Petitioner's writ challenging the process by which he was  
24 placed in administrative segregation is DISMISSED without prejudice  
25 to filing a civil rights complaint under 42 U.S.C. § 1983. Although  
26 the Supreme Court has not addressed whether a challenge to a  
27 condition of confinement may be brought under habeas, see Bell v.  
28 Wolfish, 441 U.S. 520, 526 n.6 (1979), the Ninth Circuit has held

1 that habeas jurisdiction is absent, and a 42 U.S.C. § 1983 action  
2 proper, where, as here, a successful challenge to a prison condition  
3 will not necessarily shorten the prisoner's sentence. See Ramirez  
4 v. Galaza, 334 F.3d 850, 859 (9th Cir. 2003); see also Badea v. Cox,  
5 931 F.2d 573, 574 (9th Cir. 1991) (civil rights action is proper  
6 method of challenging conditions of confinement); Crawford v. Bell,  
7 599 F.2d 890, 891-92 & n.1 (9th Cir. 1979) (affirming dismissal of  
8 habeas petition on basis that challenges to terms and conditions of  
9 confinement must be brought in civil rights complaint).

10 The Clerk shall terminate any pending motions as moot,  
11 enter judgment in accordance with this order and close the file.

12 IT IS SO ORDERED.

13  
14 DATED 10/05/2011

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16 THELTON E. HENDERSON  
17 United States District Judge